UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,155	05/23/2000	Michael R. Krause	10991833-1	4285

			EXAMINER
22879	7590	03/30/2006	DINH, DUNG C

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11 January 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-45</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-45</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/1/8/05</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/11/06 have been fully

considered but they are not persuasive.

Applicant argued that Wilson does not teach multiplexing

unit of work produced by a source application and demultiplexing

at the destination device back into unit of works. The argument

is not persuasive. Wilson teach transmitting data from a source

host to a destination storage node over an Ethernet network (see

fig.1C). Data transmit in the Ethernet network is a series of

bit streams. Hence, it is inherent that transmission of data

over an Ethernet network involves multiplexing data bytes at the

source (unit of works) into serial bit stream and the

destination demultiplexing the serial bit stream back into data

bytes.

Applicant argued that Wilson does not teach implementing a

reliable datagram service between the source and the

destination. The argument is not persuasive because "reliable

datagram service" as recited in the claims is nothing more than

a statement of purpose or at best a statement of intended

result. In claim 1, the phrase "wherein the source ... together

implement a reliable datagram service ..." does not add any

further limitation to the rest of the claim. The "reliable

datagram service" is the functional limitations recited prior in

the claim.   Therefore, the term "reliable datagram service" as

used in the claim served nothing more than a label for the

protocol. Applicant chooses to call his protocol "reliable

datagram protocol service". Wilson chooses to call his as "data

stream service". The two protocols are the equivalent if the

steps or functions required by the protocols are the same; not

what the protocol is labeled as. Wilson 'stream service'

guarantees delivery and order of packets (col.17 line 45 to col.

18 line 17). Therefore, Wilson 'stream service' implements a

reliable protocol as claimed.

Applicant compared the "reliable datagram service" with the

conventional unreliable datagram service. Applicant stated the

conventional datagram service (e.g. UDP) does not guaranteed

order of units of work whereas Applicant's protocol does. This

is true because by conventional usage 'datagram' means an

independent, self-contained entity of data that does not rely on

earlier exchange between the source and destination. (see RFC

1594 - glossary p.33). Applicant's "reliable datagram service"

requires a sequence order numbering of the data packets and

provide for acknowledgement of missing packets. Hence, despite

applicant labeling this protocol as a 'datagram' service, this

service is not datagram service (as it is conventionally

defined) but is akin to the 'stream service' as disclosed by

Wilson. Therefore, the term 'datagram' as used in claims 1 and

26 is merely a label and does not serve to further limit the

claim.

Applicant argued the Wilson and Shay combined does not

teach the queue holding transmitted but not acknowledge.

Applicant argued that Wilson teaches a Windowing but not a

sliding window as that of Shay. Applicant argued that Shay

teaches sliding window for a reliable connection not for a

datagram service. The argument is not persuasive because as

stated above, the term 'datagram' as used in the claims does not

provide further limitation to the claim but serves only as a

label. Regarding the windowing of Wilson. Applicant argued

that Wilson window is not sliding window as that disclosed by

Shay by citing to col.18 lines 17-23. That section discloses

the receiver using the window value to know how big of a buffer

its need to allocate. This disclosure in no way saying that

this is not a sliding window. Wilson does not specifically uses

the word 'sliding window'. However the sliding window

functionality is explicitly disclosed from the usage of the NAK

and the retransmission of the packets higher than indicated by

the NAK as described on col. 18 lines 1-16. That portion

describes the function of a sliding window which is a queue

holding data not yet acknowledge and data yet to be transmit (as

evidence by the disclosure of Shay).

Claims 1-45 are pending for examination.   Claims 1-45 are

rejected as stated in the prior office action.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action

is set to expire THREE MONTHS from the mailing date of this

action. In the event a first reply is filed within TWO MONTHS

of the mailing date of this final action and the advisory action

is not mailed until after the end of the THREE-MONTH shortened

statutory period, then the shortened statutory period will

expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated

from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than

SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (571) 272-3943. The examiner can normally be reached on Monday-Friday from 7:00 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (571) 272-3949.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dung Dinh
Primary Examiner
March 24, 2006